

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

DAMION LAMPP,

Plaintiff,

v.

VIDAL KIRKLAND,

Defendant.

CIVIL ACTION NO. 5:22-cv-54 (MTT)

ORDER

In September 2022, it was made known to the Court that Plaintiff Damion Lampp's counsel has been unable to locate his client. The Court ordered Lampp to show cause why his case should not be dismissed for failure to prosecute. Doc. 12. Because his client's location is still unknown, Lampp's counsel responded to the Court's order stating he is still unable to locate his client. Docs. 13; 14.

Pursuant to Federal Rule of Civil Procedure 41(b), "[i]f the plaintiff fails to prosecute or to comply with these rules or a court order," his claims may be dismissed.¹ Moreover, "the authority of a court to dismiss *sua sponte* for lack of prosecution has generally been considered an inherent power, governed not by rule or statute but by the control necessarily vested in courts to manage their own affairs.'" *Betty K Agencies,*

¹ Though Rule 41(b) by its terms applies only to dismissal on a defendant's motion, the Eleventh Circuit has "elide[d] th[e] neat distinction" between a district court's dismissal pursuant to Rule 41(b) and dismissal pursuant to its inherent authority in many of its decisions. *Betty K Agencies, Ltd. v. M/V MONADA*, 432 F.3d 1333, 1337 (11th Cir. 2005); *see also World Thrust Films, Inc. v. Int'l Family Entm't, Inc.*, 41 F.3d 1454, 1456 (11th Cir. 1995) (citing Rule 41(b) as source of the district court's authority to dismiss actions). Regardless of the source of authority, it is clear the Court may dismiss an action as a sanction for failure to comply with a court order.

Ltd., 432 F.3d at 1337 (internal alterations omitted) (quoting *Link v. Wabash R.R. Co.*, 370 U.S. 626, 630 (1962)). Because Lampp has failed to prosecute his case and comply with the Court's order, dismissal is appropriate.

Accordingly, Lampp's complaint is **DISMISSED** without prejudice.

SO ORDERED, this 1st day of November, 2022.

S/ Marc T. Treadwell
MARC T. TREADWELL, CHIEF JUDGE
UNITED STATES DISTRICT COURT